IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.551 OF 2006
IN
WRIT PETITION NO.5154 OF 1993

The Municipal Corporation of
City of Pune, through the
Municipal Commissioner, Pune. .. Applicant.

Vs

1. Raghunath Bapu Dudhane,
since deceased by his legal heirs

1A Shashikant Raghunath Dudhane
and ors. .. Respondents.

Mr.R.G.Ketkar, for the Applicant-Corporation.
Mr.P.M.Patil, AGP for the respondent.
Mr.A.M.Kulkarni h/f Mr A.A.Kumbhakoni, for the respondents.

CORAM : B.H.MARLAPALLE & D.B.BHOSALE, JJ.
DATED : MARCH 20, 2006.

P.C:

1. Writ Petition No.5154 of 1993 was dismissed in default pursuant to the conditional order dated 10.2.1995. Connected Writ Petition No.3054 of 1993 came to be decided by this Court on 27.1.2004 and the applicant-corporation was granted liberty to take appropriate steps for restoration of writ petition no.5154 of 1993. Consequently, Civil Application No.549 of 2006 has been filed for restoration of the petition but belatedly. The office note states that the restoration application is beyond time by 9 years 382 days.

2. Mr.Ketkar, learned counsel for the applicant-municipal corporation, submitted that the conditional order dated 10.2.1995 was inadvertently not attended to by his clerk and when writ petition no.3054 of 1993 came up for final hearing before this Court the corporation got the knowledge that its petition (writ petition no.5154 of 1993) was dismissed in default and when it was brought to the attention of the Court, the Corporation was granted liberty to take appropriate steps. According to Mr Ketkar, the limitation period would thus start fresh from 27.1.2004 and he further submitted that when the application for restoration was sought to be taken out by the corporation, the papers in writ petition no.5154 of 1993 were not traceable and in searching of the same papers almost one year was lost.

3. Notwithstanding the explanation provided by the applicant, we must note that the applicant is a public body and it has come before us challenging the order passed by the lower appellate authority in respect of a patch of land admeasuring about five acres and allotted to the corporation by the State Government when the said land was declared surplus under the Urban Land (Ceiling and Regulation) Act,1976. Mr Ketkar, therefore, prayed for condonation of delay so

as to restore the writ petition. We are satisfied that the delay deserves to be condoned.

4. Hence, the application is allowed in terms of prayer clauses (a) and (b).

(D.B.BHOSALE, J.) **(B.H.MARLAPALLE,J.)**